

From: Robert Kosin [rkosin@barringtonhills-il.gov]
Sent: Saturday, August 07, 2010 9:26 AM
To: Dolores Trandel
Cc: Sarah Kenney
Subject: VBH BOT FYI Legal FOIA

www.firstelectricnewspaper.com

<http://woodstockadvocate.blogspot.com>

<http://mchenrycountyblog.com>

* * *

Frequent filers weigh in on FOIA

By KEVIN P. CRAVER - kcraver@nwherald.com
Created: Saturday, August 7, 2010 5:30 a.m. CDT

The new Illinois Freedom of Information Act is meeting with mixed reviews from McHenry County residents who frequently file FOIA requests.

They like some of the improvements made to the law, which took effect Jan. 1 and applies to the state's 7,000-plus units of government. But county watchdogs also said that time would tell just how much better the law is in a state with a long-standing transparency problem.

Woodstock attorney Jane Collins, who has filed numerous FOIA requests to governments over the past 20 years, said the new law could be better but that she was willing to give it more time.

"As far as I'm concerned, besides not having to pay for the first 50 pages of copies, and the slightly shorter turnaround time, I don't see a big difference, but we're just into it now," Collins said.

Lawmakers approved the new FOIA last year in the months after the arrest, impeachment and indictment of former Gov. Rod Blagojevich. The new FOIA, drafted by Attorney General Lisa Madigan with the help of good-government and media groups, strengthens the state's original 1984 act - Illinois was the last state to approve an open-records law.

A 1999 audit of state governments by The Associated Press found that more than two-thirds of them did not comply with FOIA. A 2006 investigation by the Better Government Association yielded a 60 percent noncompliance rate - almost 40 percent of the Illinois governments tested never even responded to the FOIA request.

The new rules shorten the time that governments have to respond to FOIA requests from seven days to five, empowers Madigan's public access counselor to enforce the law, and for the first time imposes civil penalties for governments that willingly violate it.

But governments that want to keep public information private still have plenty of tricks they can use, said Peter Gonigam, a Carpentersville resident who runs a website, First Electric Newspaper.

"The changes made to the FOIA law don't really make an awful lot of difference," Gonigam said. "If someone wants to be uncooperative and obstructive, it is still easily possible for them to operate within the structure of the law and frustrate requests."

Gonigam said he liked that the new law overhauled the appeals process for denied FOIA requests. Appeals now go directly to Madigan's office rather than the very agency that denied the request in the first place.

But blogger Gus Philpott said he had luck with appealing denials under the old system. The author of the Woodstock Advocate blog and Green Party candidate for sheriff estimates that he files 25 FOIA requests a year, mostly to law

enforcement agencies.

One downside of the new law, Philpott and Collins said, is that the public access counselor's office is being deluged with requests to review FOIA denials. Supporters of the new law say that the increased workload is either growing pains or a sign that the law is doing what it is supposed to do. But Collins is not so sure - she has appealed three FOIA denials and still is waiting to hear back.

"If we're going to have things just sitting down there, is that much of an improvement?" Collins said.

The vast majority of FOIA requests filed in Illinois come from the public, not the news media. Just under 75 percent of the 1,298 requests for FOIA assistance received by the Attorney General's Office last year, before the new law took effect, came from the public. Government officials made up 20 percent, with the news media accounting for the remaining 5 percent.

Likewise, a Northwest Herald review of FOIA requests made to McHenry County municipalities in the first quarter of 2010 showed that the news media accounted for only a small fraction of them.

Philpott said he anticipated that governments would deny fewer requests over time if they realized that more and more denials would be contested. But he sympathized somewhat with the burden of time and money that the new FOIA put on governments. He said he hoped that people who file such requests would have a valid purpose for doing so, and that they would share the information they find.

"Sometimes they're turning over rocks to no avail, but other times they're turning rocks over and finding something slimy under it," Gonigam said.

About this series

"No More Excuses" is a yearlong Northwest Herald series chronicling the public's right to know in Illinois.

On the Net/To get help

You can learn more about the Illinois Freedom of Information Act, and learn how to file FOIA requests, at the Illinois Attorney General's website at www.illinoisattorneygeneral.gov.

The Public Access Counselor's office can be reached at 877-299-FOIA.

* * *